

Serial No. 10/688,772 – Vande Hey et al.  
Art Unit 3637 – Attorney Docket 1327.003  
Response to December 24, 2008 Office Action (Final)  
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**In the Drawings**

Applicant submits a corrected drawing sheet including Fig. 6 that remove the leader lines without reference numbers, or to add reference numbers to those lines.

Attachment: Replacement sheet including Figs 6, 7 and 8.

### **REMARKS**

Entry of the foregoing amendments is respectfully requested. Claims 5, 12, and 19 have been amended. Claims 4-23 are currently pending in the application. Favorable reconsideration and allowance of this application is respectfully requested in light of the foregoing amendments and the remarks that follow.

1. Objections to the Drawings

In the Office Action the Examiner has objected to Fig. 6 as including leader lines without any accompanying reference numbers.

Applicant respectfully traverses the Examiner's objections to the drawing figures. More specifically, with this response applicant submits a corrected drawing sheet including Fig. 6 that remove the leader lines without reference numbers, or to add reference numbers to those lines. As such, applicant respectfully requests that the Examiner withdraw the objections to the drawing figures.

2. Claim Rejections Under 35 U.S.C. § 112

In the Office Action the Examiner has rejected claims 5, 12 and 19 under 35 U.S.C. § 112 as failing to comply with the written description requirement. In particular, claims 5, 12 and 19 have been rejected as including subject matter not disclosed in the application.

Applicant respectfully traverses the Examiner's rejection of claims 5, 12 and 19. More specifically, with this response applicant has amended each of claims 5, 12 and 19 to state that the lower closed end is adapted to overlap the lower open end of the waterlock of an adjacent tile. Therefore, applicant respectfully requests that the Examiner withdraw the rejections to claims 5, 12 and 19.

3. Rejections Based on Prior Art under 35 U.S.C. § 103(a)

a. Claims 4, 7, 9-11, 14, 16 and 17

In the Office Action, the Examiner has rejected claims 4, 7, 9-11, 14, 16 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Elzey U.S. Patent No. 1,124,001 (the '001 patent), in

light of Batcheller U.S. Patent No. 1,740,217 (the '217 patent) and Papsdorf U.S. Patent No. 4,787,190 (the '190 patent).

Applicant respectfully traverses the Examiner's rejections to 4, 7, 9-11, 14, 16 and 17 based on the '001, '217 and '190 patents. More specifically, claims 4 and 11 specify that the tile include on the back of the image section non-uniform reinforcing ribs that extend from the back of the image section no further than the datum plane. As stated in the specification on page 11, paragraph [0044], lines 18-20, "(i)n preferred embodiments, the non-uniformity, non-repetitive nature of the reinforcing ribs continues throughout all image cavities in all molds used to produce the tiles 10 in accordance with the invention." Therefore, the "non-uniform" ribs 28 required by claims 4 and 11 are clearly defined in the specification as being ribs 28 on a tile 10 that are formed to have different, non-repetitive configurations from ribs 28 used in tile images 24 found on other tiles 10.

In contrast, the '217 patent, which is cited by the Examiner as disclosing the non-uniform ribs required by claims 4 and 11 and not disclosed in either the '001 or '190 patents, discloses a shingle that includes supporting ribs 26, 27, 30, 31 and 32 located on an inner surface of the shingle. These ribs 26, 27, 30, 31 and 32 are each formed in a standard and repeating configuration as best shown in Fig. 5 of the '217 patent. Because the configuration for the ribs 26, 27 and 30-32 is the same for each shingle, the ribs will cause a uniform discoloration pattern to be created on each shingle, which is directly opposite of the structure and purpose of the non-uniform ribs required by claims 4 and 11. Therefore, the ribs 26, 27 and 30-32 in the '217 patent are not non-uniform within the definition for this term in the present application, and as is required by claims 4 and 11.

As a result, the subject matter of claims 4 and 11 is not disclosed or suggested by the combination of the '001, '217 and '190 patents, such that claim 4, as well as claims 7, 9 and 10 that depend from claim 4, and claims 14, 16 and 17 that depend from claim 11, are allowable. Therefore, applicant respectfully requests that the Examiner withdraw the rejection to claims 4, 7, 9-11, 14, 16 and 17.

b. Claims 5 and 12

In the Office Action, the Examiner has also rejected claims 5 and 12 under 35 U.S.C. § 103(a) as being unpatentable over the '001, '217 and '190 patents and further in view of Noone et al. U.S. Patent No. 6,178,703 (the '703 patent).

Applicant respectfully traverses the Examiner's rejection of claims 5 and 12 based on the '001, '217, '190 and '703 patents. More specifically, claim 5 depends from claim 4, and therefore includes each of the limitations of claim 4, including the limitation of the non-uniform ribs extending rearwardly from the back of the image section. Further, claim 12 depends from claim 11, and therefore includes each of the limitations of claim 11, including the limitation of the non-uniform ribs extending rearwardly from the back of the image section. As stated previously concerning the rejection of claims 4 and 11, none of the '001, '217 or '190 patents disclose or suggest this limitation.

The '703 patent is further unable to overcome the deficiencies of those references. More particularly, the '703 patent discloses a roofing tile 10 with a back surface including a number of transverse and vertical webs 62-67 extending across the back surface of the tile 10. These webs 62-67 are each straight in configuration and are arranged in a uniform and repeating pattern on each individual tile 10. Therefore, the '703 patent does not disclose or suggest a tile including non-uniform ribs extending rearwardly from an image section of the tile as required by claims 4 and 11.

As a result, the subject matter of claim 4 is neither shown nor suggested by the combination of the '001, '217, '190 and '703 patents, such that claim 5, which depends from claim 4, and claim 12, which depends from claim 11, are allowable. Applicant therefore respectfully requests that the Examiner withdraw the rejections to claims 5 and 12.

c. Claims 6 and 13

In the Office Action, the Examiner has also rejected claims 6 and 13 under 35 U.S.C. § 103(a) as being unpatentable over the '001, '217 and '190 patents and further in view of Fifield et al. U.S. Patent No. 5,070,671 (the '671 patent).

Applicant respectfully traverses the Examiner's rejection of claims 6 and 13 based on the '001, '217, '190 and '671 patents. More specifically, claim 6 depends from claim 4, and therefore includes each of the limitations of claim 4, including the limitation of the non-uniform ribs extending rearwardly from the back of the image section. Further, claim 13 depends from claim 11, and therefore includes each of the limitations of claim 11, including the limitation of the non-uniform ribs extending rearwardly from the back of the image. As stated previously in overcoming the rejection of claims 4 and 11, none of the '001, '217 or '190 patents disclose or suggest this limitation.

The '671 patent is further unable to overcome the deficiencies of those references. More particularly, the '671 patent discloses a roofing tile 1 with a back surface having a uniform construction including an undersurface 3 having hollowed-out section 11 therein. The undersurface 3 and these sections 11 are arranged in a uniform and repeating pattern on each individual tile 1. Therefore, the '671 patent does not disclose or suggest a tile including non-uniform ribs extending rearwardly from an image section of the tile as required by claims 4 and 11.

As a result, the subject matter of claims 4 and 11 is neither shown nor suggested by the combination of the '001, '217, '190 and '671 patents, such that claim 6, which depends from claim 4, and claim 13, which depends from claim 11, are allowable. Applicant therefore respectfully requests that the Examiner withdraw the rejections to claims 6 and 13.

d. Claims 8 and 15

In the Office Action, the Examiner has also rejected claims 8 and 15 under 35 U.S.C. § 103(a) as being unpatentable over the '001, '217 and '190 patents and further in view of Bremer U.S. Patent No. 2,482,835 (the '835 patent).

Applicant respectfully traverses the Examiner's rejection of claims 8 and 15 based on the '001, '217, '190 and '835 patents. More specifically, claim 8 depends from claim 4, and therefore includes each of the limitations of claim 4, including the limitation of the non-uniform ribs extending rearwardly from the back of the image section. Further, claim 15 depends from

claim 11, and therefore includes each of the limitations of claim 11, including the limitation of the non-uniform ribs extending rearwardly from the back of the image section. As stated previously in overcoming the rejection of claims 4 and 11, none of the '001, '217 or '190 patents disclose or suggest this limitation.

The '835 patent is further unable to overcome the deficiencies of those references. More particularly, the '835 patent discloses a roofing tile with a back surface having a uniform construction including depending flanges 6 and 7. The depending flanges 6 and 7 are arranged in a uniform and repeating pattern on each individual tile. Therefore, the '835 patent does not disclose or suggest a tile including non-uniform ribs extending rearwardly from an image section of the tile as required by claims 4 and 11.

As a result, the subject matter of claims 4 and 11 is neither shown nor suggested by the combination of the '001, '217, '190 and '835 patents, such that claim 8, which depends from claim 4, and claim 15, which depends from claim 11, are allowable. Applicant therefore respectfully requests that the Examiner withdraw the rejections to claims 8 and 15.

e. Claims 18, 21 and 23

In the Office Action, the Examiner has rejected claims 18, 21 and 23 under 35 U.S.C. § 103(a) as being unpatentable in light of the '001, '217, '190 and '835 patents.

Applicant respectfully traverses the Examiner's rejections to 18, 21 and 23 based on the '001, '217, '190 and '835 patents. More specifically, claim 18 specifies that the tile include on the back of the image section non-uniform reinforcing ribs that extend from the back of the image section no further than the datum plane. As stated in the specification on page 11, paragraph [0044], lines 18-20, "(i)n preferred embodiments, the non-uniformity, non-repetitive nature of the reinforcing ribs continues throughout all image cavities in all molds used to produce the tiles 10 in accordance with the invention." Therefore, the "non-uniform" ribs 28 required by claim 18 are clearly defined in the specification as being ribs 28 on a tile 10 that are formed to have different, non-repetitive configurations from ribs 28 used in tile images 24 found on other tiles 10.

In contrast, the '217 patent, which is cited by the Examiner as disclosing the non-uniform ribs required by claim 18 and not disclosed in either the '001 or '190 patents, discloses a shingle that includes supporting ribs 26, 27, 30, 31 and 32 located on an inner surface of the shingle. These ribs 26, 27, 30, 31 and 32 are each formed in a standard and repeating configuration as best shown in Fig. 5 of the '217 patent. Because the configuration for the ribs 26, 27 and 30-32 is the same for each shingle, the ribs will cause a uniform discoloration pattern to be created on each shingle, which is directly opposite of the structure and purpose of the non-uniform ribs required by claim 18. Therefore, the ribs 26, 27 and 30-32 in the '217 patent are not non-uniform within the definition for this term in the present application, and as is required by claim 18.

Further, as stated previously regarding the rejection of claims 8 and 15, the '835 patent is further unable to overcome the deficiencies of those references. More particularly, the '835 patent discloses a roofing tile with a back surface having a uniform construction including depending flanges 6 and 7. The depending flanges 6 and 7 are arranged in a uniform and repeating pattern on each individual tile. Therefore, the '835 patent does not disclose or suggest a tile including non-uniform ribs extending rearwardly from an image section of the tile as required by claim 18.

As a result, the subject matter of claim 18 is neither shown nor suggested by the combination of the '001, '217, '190 and '835 patents, such that claim 18, as well as claims 21 and 23 which depend from claim 18, is allowable. Applicant therefore respectfully requests that the Examiner withdraw the rejections to claims 18, 21 and 23.

f. Claim 19

In the Office Action, the Examiner has rejected claims 19 under 35 U.S.C. § 103(a) as being unpatentable in light of the '001, '217, '190 and '835 patents, further in view of the '703 patent.

Applicant respectfully traverses the Examiner's rejection of claim 19 based on the '001, '217, '190, '835 and '703 patents. More specifically, claim 19 depends from claim 18, and therefore includes each of the limitations of claim 18, including the limitation of the non-uniform

ribs extending rearwardly from the back of the image section. As stated previously in overcoming the rejection of claim 18, none of the '001, '217, '190 or '835 patents disclose or suggest this limitation.

The '703 patent is further unable to overcome the deficiencies of those references. More particularly, the '703 patent discloses a roofing tile 10 with a back surface including a number of transverse and vertical webs 62-67 extending across the back surface of the tile 10. These webs 62-67 are each straight in configuration and are arranged in a uniform pattern on each individual tile 10. Therefore, the '703 patent does not disclose or suggest a tile including non-uniform ribs extending rearwardly from an image section of the tile as required by claim 18.

As a result, the subject matter of claim 18 is neither shown nor suggested by the combination of the '001, '217, '190, '835 and '703 patents, such that claim 19, which depends from claim 18, is allowable. Applicant therefore respectfully requests that the Examiner withdraw the rejections to claim 19.

g. Claim 20

In the Office Action, the Examiner has rejected claims 20 under 35 U.S.C. § 103(a) as being unpatentable in light of the '001, '217, '190 and '835 patents, further in view of the '671 patent.

Applicant respectfully traverses the Examiner's rejection of claim 20 based on the '001, '217, '190, '835 and '671 patents. More specifically, claim 20 depends from claim 18, and therefore includes each of the limitations of claim 18, including the limitation of the non-uniform ribs extending rearwardly from the back of the image section. As stated previously in overcoming the rejection of claim 18, none of the '001, '217, '190 or '835 patents disclose or suggest this limitation.

The '671 patent is further unable to overcome the deficiencies of those references. More particularly, the '671 patent discloses a roofing tile 1 with a back surface having a uniform construction including an undersurfaces 3 having hollowed-out section 11 therein. The undersurface 3 and these sections 11 are arranged in a uniform pattern on each individual tile 1.



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Therefore, the '671 patent does not disclose or suggest a tile including non-uniform ribs extending rearwardly from an image section of the tile as required by claim 18.

As a result, the subject matter of claim 18 is neither shown nor suggested by the combination of the '001, '217, '190, '835 and '671 patents, such that claim 20, which depends from claim 18, is allowable. Applicant therefore respectfully requests that the Examiner withdraw the rejections to claim 20.

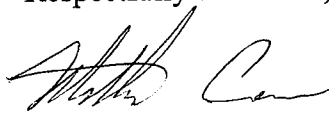
#### CONCLUSION

It is submitted that claims 4-23 are in compliance with 35 U.S.C. §§ 112 and 103, and each define patentable subject matter. A Notice of Allowance is therefore respectfully requested.

No fees are believed to be payable with this communication, but authorization is given to charge any additional fees or credit any overpayment in connection with this or any future communication to Deposit Account No. 50-1170.

The Examiner is invited to contact the undersigned by telephone if it would help expedite the allowance of this application.

Respectfully submitted,



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